



UPPER MERION & PLYMOUTH RAILROAD COMPANY
CONSHOHOCKEN, PA.

11414
RECORDATION NO. Filed 1425

JAN 23 1980 - 12 50 PM
INTERSTATE COMMERCE COMMISSION

January 23, 1980

0-023A050

JAN 23 1980
50.00

Secretary
Interstate Commerce Commission
Washington, DC 20423

CC Washington, D.C.

Dear Sir:

Enclosed for recordation under the provisions of Section 11303 of the Interstate Commerce Act and the regulations promulgated thereunder, as amended, are the original and two counterparts of a Lease Agreement dated as of September 7, 1979.

A general description of the railroad equipment covered by the enclosed documents is as follows:

One hundred (100) 100-ton open-top hopper cars 3433 cu. ft. (approximately) bearing reporting marks and numbers PVS 1000-1099 inclusive.

The names and addresses of the parties to the enclosed document are:

Lease Agreement

LESSOR: Upper Merion and Plymouth Railroad Company
P.O. Box 404
Conshohocken, PA 19428

LESSEE: Pecos Valley Southern Railway Company
P. O. Box 349
Pecos, Texas 79772

The undersigned is the Assistant Secretary of the Lessor mentioned in the enclosed documents and has knowledge of the matters set forth therein.

Please return the original of the enclosed Lease Agreement to Charles Kappler, Esq., Alvord and Alvord, 200 World Center Building, 918 Sixteenth Street, N.W., Washington, DC 20006, or to the bearer hereof.

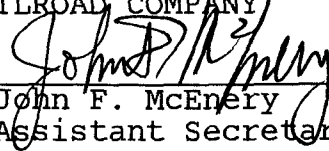
C. T. Kappler
Charles Kappler

Also enclosed is a remittance in the amount of the required recording fees.

Very truly yours,

UPPER MERION AND PLYMOUTH
RAILROAD COMPANY

By


John F. McEnery
Assistant Secretary

JBS/ajm

D/SB3

Interstate Commerce Commission

Washington, D.C. 20423

1/23/80

OFFICE OF THE SECRETARY

Upper Merion & Plymouth RE.Co.

P.O.Box 404

Conshohocken, PA. 19428

Dear

Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on **1/23/80** at **12:50pm**, and assigned re-recording number(s). **11414**

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

11414
RECORDATION NO. Filed 1425
JAN 23 1980 - 12 50 PM
INTERSTATE COMMERCE COMMISSION

LEASE AGREEMENT

Dated as of September 7th, 1979

BETWEEN

UPPER MERION AND PLYMOUTH RAILROAD COMPANY

("Lessor")

AND

PECOS VALLEY SOUTHERN RAILWAY COMPANY

("Lessee")

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LEASE AGREEMENT

THIS LEASE AGREEMENT, (this "Agreement") made as of the 7th day of September, 1979, between UPPER MERION AND PLYMOUTH RAILROAD COMPANY, a Pennsylvania corporation (the "Lessor") and PECOS VALLEY SOUTHERN RAILWAY COMPANY, a corporation (the "Lessee"), as Lessee.

1. Scope of Agreement

A. Lessor agrees to lease to Lessee, and Lessee agrees to lease from Lessor those certain items of railroad equipment (collectively the "Equipment" and individually an "Item of Equipment") as set forth in any lease schedule or schedules (the "Schedule" or "Schedules") executed by the parties concurrently herewith or from time to time hereafter, each of which when signed by both parties shall be part of this Agreement.

B. It is the intent of the parties of this Agreement that the Lessee shall have no interest in the Equipment other than the rights acquired as a lessee hereunder. Lessee agrees that it will at no time take any action or file any document which is inconsistent with the foregoing intent and that it will take such action and execute such documents as may be necessary to accomplish this intent.

2. Term

A. This Agreement shall remain in full force until it shall have been terminated as to all of the Equipment. The term of this Agreement with respect to each Item of Equipment shall commence upon the date of delivery of such Item of Equipment as set forth in Section 3A hereof and shall continue with respect to such Item of Equipment for the term (the "Term") provided in the Schedule covering such Item of Equipment unless sooner terminated as hereinafter provided.

B. If this Agreement has not been earlier terminated and no default has occurred and is continuing, the Term with respect to each Item of Equipment shall be automatically extended for not more than five (5) consecutive periods of six (6) months until terminated by either party by giving to the other not less than six (6) months prior written notice of termination. Any such termination shall be effective only on the last day of the Term or the last day of any such extended period.

3. Supply Provisions

A. Lessor will inspect each Item of Equipment tendered by the manufacturer for delivery to Lessee. Prior to such inspection, however, Lessee shall confirm in writing to Lessor that the sample car which will be made available for Lessee's inspection prior to the commencement of deliveries conforms to the specifications of the equipment agreed to by Lessee. If the Item of Equipment conforms to the specifications of the equipment ordered by Lessor, and to all applicable governmental regulatory specifications, and this Agreement has not been terminated, Lessor will accept delivery and shall notify Lessee in writing of this acceptance and the date of delivery. An Item of Equipment shall be deemed delivered to Lessee upon the date of its first loading. Any Item of Equipment moved to Lessee's railroad shall be at no cost to Lessee. Due to the nature of railroad operations in the United States, Lessor can neither control nor determine when the Items of Equipment leased hereunder will actually be available to Lessee for its use on its railroad tracks. Notwithstanding that Lessee may not have immediate physical possession of the Items of Equipment leased hereunder, Lessee agrees to pay to Lessor the rental charges set forth in this Agreement. To move the Items of Equipment and insure optimal use of the Items of Equipment, Lessor agrees to use its best efforts to monitor the movement of the Items of Equipment and, when deemed necessary, Lessor will issue movement orders with respect to such Items of Equipment to other railroad lines in accordance with Interstate Commerce Commission ("ICC") and American Association of Railroads ("AAR") interchange agreements and rules.

B. Except with respect to equipment presently owned or leased by Lessee, Lessee shall give preference to Lessor and shall load the Items of Equipment leased from Lessor hereunder when on Lessee's line, prior to loading items of equipment owned or leased by Lessee during the term of this Agreement or interchanged with other railroads; provided, however, that this shall in no event prevent or prohibit Lessee from fulfilling its obligations to provide transportation and facilities upon reasonable requests therefor to shippers on its railroad tracks. With respect to equipment presently owned or leased by Lessee, Lessee agrees not to take any affirmative action which would result in the Items of Equipment being treated less favorably than equipment presently owned or leased by the Lessee.

C. Lessee agrees that it will not lease any additional items of railroad equipment similar to the Equipment from any third party until the earlier to occur of: (i) Lessee shall have leased no less than 100 Items of Equipment from Lessor pursuant to this Agreement; or (ii) December 31, 1979.

4. Railroad Markings and Record Keeping

A. Lessor agrees that on or before delivery of the Items of Equipment to Lessee, the Items of Equipment will be lettered with the railroad markings of Lessee, and the name and/or other insignia used by Lessee. Such name or insignia shall comply with all applicable regulations.

B. Lessor, during the term of this Agreement, shall at no cost to Lessee, prepare for Lessee's signature and timely filing all documents relating to the registration, maintenance and record keeping functions with respect to the Items of Equipment and shall perform all record keeping functions related to the use of the Items of Equipment by Lessee and other railroads in accordance with AAR railroad interchange agreements. Such matters shall include but are not limited to the preparation of the following documents: (i) Appropriate AAR interchange agreements with respect to the Items of Equipment; (ii) Registration for the Items of Equipment in the Official Railway Equipment Register and the Universal Machine Language Equipment Register; and (iii) Such reports as may be required from time to time by the ICC and/or other regulatory agencies with respect to the Items of Equipment.

C. Each Item of Equipment leased hereunder shall be registered in the Official Railway Equipment Register and the Universal Machine Language Equipment Register. Such registration shall direct that correspondence from railroads using such Items of Equipment shall be addressed to Lessor.

D. Any record keeping performed by Lessor hereunder and all record of payments, charges and correspondence related to Items of Equipment shall be separately recorded and maintained by Lessor in a form suitable for reasonable inspection by Lessee from time to time during regular business hours of Lessor. Lessee shall supply Lessor with such reports regarding the use of Items of Equipment by Lessee on its railroad line as Lessor may reasonably request.

5. Maintenance, Taxes and Insurance

A. Lessor will pay all costs, expenses, fees and charges incurred in connection with the use and operation of each Item of Equipment during the Term of this Agreement and any extension thereof, including but not limited to repairs, maintenance and servicing and any transportation charges incurred by Lessee to transport each Item of Equipment to and/or from any contract maintenance facility unless the same was

occasioned by the fault of Lessee while an Item of Equipment was in the physical possession of Lessee. Lessee shall be responsible to inspect all Items of Equipment interchanged to it to insure that such Items of Equipment are in good working order and condition and shall be liable to Lessor for any repairs required for damage not noted at the time of interchange. Lessee hereby transfers and assigns to Lessor for and during the Term of this Agreement as to each Item of Equipment all of its right, title and interest in any warranty in respect to the Items of Equipment. All claims or actions on any warranty so assigned shall be made and prosecuted by Lessor at its sole expense and Lessee shall have no obligation to make any claim on such warranty. Any recovery under such warranty shall be made payable to Lessor. All proceeds from such recovery shall be used to repair or replace the Items of Equipment.

B. Lessee may make minor repairs to facilitate continued immediate use of an Item of Equipment, but shall not otherwise make any alterations, improvements or additions to an Item of Equipment without Lessor's prior written consent. If Lessee makes an alteration to any Item of Equipment without Lessor's prior written consent, Lessee shall be liable to Lessor for any revenues lost due to such alteration. Title to any such alteration, improvement or addition occurring in the course of or as a result of normal and customary maintenance shall be and remain with Lessor.

C. Lessor shall make or cause to be made such inspections of and maintenance and repairs to the Items of Equipment as may be required. Lessor shall also make, at its expense, all alterations, modifications or replacements of parts as shall be necessary to maintain the Items of Equipment in good operating condition, as determined by Lessor, throughout the Term of this Agreement for such Items of Equipment. Lessee shall immediately notify Lessor of any necessary maintenance and repairs transmitted to Lessee by any other railroad or shipper. Lessor shall be responsible for arranging repairs and maintenance at its expense except as noted in 5A hereof.

D. Lessee will at all times during the Term of this Agreement and any extension thereof, while the Equipment is on Lessee's railroad tracks and at its own expense, cause to be carried and maintained insurance with respect to all Items of Equipment subject hereto, and property damage and public liability insurance in amounts and against risks customarily insured against by railroad companies on similar equipment. The insurance required by this Section 5D may be satisfied by a self-insurance program acceptable to Lessor and maintained by Lessee in accordance with sound actuarial principles. Lessee will furnish Lessor concurrently with the execution hereof, and thereafter at inter-

vals of not more than twelve (12) calendar months, proof of insurance coverage for the ensuing year. Lessee will agree to advise Lessor promptly of any lapse of any such insurance or of any default of payment of any premium and of any other act or omission of Lessee of which it has knowledge which might, in its opinion, invalidate or render unenforceable, in whole or in part, any insurance on the Equipment. All insurance shall be taken out in the name of Lessee and Lessor (or its assignee) as their interest may appear. The policies or certificates shall provide that there shall be no recourse against Lessor for the payment of premiums and shall provide for at least 20 business days' prior written notice to be given to Lessor by the underwriters in the event of cancellation. If the Lessee shall default in the payment of any premium in respect of any such insurance policies, Lessor may, but shall not be obligated to, pay such premium, and if Lessor does so, the Lessee shall repay the amount thereof to Lessor on demand.

E. Lessor agrees to reimburse Lessee for all taxes, assessments and other governmental charges of whatsoever kind or character paid by Lessee relating to each Item of Equipment and on the lease, delivery or operation thereof which may be accrued, levied, assessed or imposed during the Term or which remain unpaid as of the date of delivery of such Item of Equipment to Lessee, except taxes on net income imposed on Lessee. Lessor and Lessee will comply with all state and local laws requiring the filing of ad valorem tax returns on the Equipment. Lessor shall review all tax returns prior to filing.

6. Rental Charges

Lessee agrees to pay Lessor, as rental for the Equipment, all mileage charges and revenue from the hire of each Item of Equipment (including both basic and incentive per-diem charges obtained for each Item of Equipment) received by the Lessee.

7. Fees Paid by Lessor

In the event utilization of the Equipment off the Lessee's railroad in any month amounts to an average of more than five hundred forty-eight (548) hours per Item of Equipment, Lessor agrees to pay Lessee one-half of the per-diem revenues received from utilization of the Equipment for each hour off Lessee's railroad in excess of the product of five hundred forty-eight (548) hours times the number of Items of Equipment.

8. Termination by Lessor

A. If the average utilization for the Equipment in any calendar quarter is less than 75%, Lessor will notify Lessee of

such fact and Lessee may, at its option, pay to Lessor an amount equal to the difference between the amount Lessor actually received during said calendar quarter and the amount Lessor would have received had a utilization rate for the cars of 75% been achieved. *11/10/79*

In the event Lessee has not paid such sums within ~~such~~ *11/10/79* ten-day period, Lessor may, at its option, terminate this Agreement on not less than 20 days' prior written notice to Lessee. If the utilization rate fails to equal 75% for a second consecutive quarter, Lessee may pay the sum necessary to bring the utilization rate to 75% and Lessor may elect to terminate this Agreement as to twenty Items of Equipment. At such time as the number of Items of Equipment hereunder has been reduced to sixty, Lessor shall have the right, at the end of any two consecutive quarters when the utilization rate fails to equal 75%, to terminate this Agreement.

B. Except when an Item of Equipment is awaiting its initial loading, if any Item of Equipment remains on Lessee's railroad tracks for more than twelve (12) days, Lessee shall pay to Lessor an amount equal to the car hire revenues Lessee would have received if such Item of Equipment had been in the physical possession and use of another railroad for the entire period after expiration of twelve (12) days.

9. Delivery of Cars

Lessor shall complete delivery of all cars hereunder by December 31, 1979. In the event of failure to make such deliveries, Lessee may terminate this Agreement by written notice to Lessor.

10. Possession and Use

A. So long as Lessee shall not be in default under this Agreement, Lessee shall be entitled to the possession, use and quiet enjoyment of the Equipment in accordance with the terms of this Agreement and in the manner and to the extent the Equipment is customarily used in the railroad freight business. Lessee agrees that to the extent it has physical possession of and can control use of the Equipment, it will at all times be used and operated under and in compliance with the laws of the jurisdiction in which the same may be located and in compliance

with all lawful acts, rules and regulations and orders of any governmental bodies or officers having power to regulate or supervise the use of such property, except that either Lessor or Lessee may in good faith and by appropriate proceedings contest the application of any such rule, regulation or order in any reasonable manner at the expense of the contesting party.

B. Lessee may not directly or indirectly create, incur, assume or suffer to exist, any mortgage, pledge, lien, charge, encumbrance or other security interest or claim on or with respect to the Equipment or any interest therein or in this Agreement or any Schedule thereto, except liens, claims or encumbrances created by the Lessor. Lessee will promptly, at its expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrances, security interest, or claim if the same shall arise at any time by any person claiming by, through or under Lessee.

11. Remedies Upon Default

A. The occurrence of any of the following events shall be events of default ("Events of Default"):

(i) The nonpayment by Lessee of any sum required hereunder to be paid by Lessee within ten (10) days after the date notice is given Lessee that such payment is due Lessor, except that a failure of utilization rates to amount to 75% shall not be a default on the part of Lessee and all consequences thereof shall be determined by Paragraph 8A thereof;

(ii) The default by Lessee under any other term, covenant or condition of this Agreement which is not cured within ten (10) days after the receipt of written notice of said default from Lessor;

(iii) Any affirmative act of insolvency by Lessee, or the filing by Lessee of any petition or action under any bankruptcy, reorganization, insolvency or moratorium law, or any other law or laws for the relief of, or relating to, debtors;

(iv) The filing of any involuntary petition under any bankruptcy, reorganization, insolvency or moratorium

law against Lessee that is not dismissed within sixty (60) days thereafter, or the appointment or any receiver or trustee to take possession of the properties of Lessee, unless such petition or appointment is set aside or withdrawn or ceases to be in effect within sixty (60) days from the date of said filing or appointment;

(v) The subjection of any of Lessee's property to any levy, seizure, assignment, application or sale for or by any creditor or governmental agency which substantially impairs Lessee's capacity to perform its obligations under this Agreement.

B. Upon the occurrence of any Event of Default, Lessor may, at its option, terminate this Agreement and may:

(i) Proceed by appropriate court action to enforce performance by Lessee of this Agreement or to recover those direct financial damages set forth in Paragraph 6 hereof, which result from a breach thereof plus Lessor's court costs and reasonable attorney's fees, in securing such enforcements; or

(ii) By notice in writing to Lessee, terminate Lessee's right of possession of the Equipment, whereupon all right and interest of Lessee in the Equipment shall terminate; and thereupon Lessor may by its agents enter upon any premises where the Equipment may be located and take possession of it and henceforth hold, possess and enjoy the same free from any right of Lessee. Lessor shall nevertheless have a right to recover from Lessee any and all rental amounts which, under the terms of this Agreement, may then be due or which may have accrued to that date.

12. Termination

A. At the expiration or termination of this Agreement as to any Item of Equipment set forth on a Schedule attached herein, Lessee will surrender possession of such Item of Equipment to Lessor by delivering the same to Lessor. The assembling, delivery, storage and transporting of the Item of Equipment shall be at the expense and risk of Lessor. An Item of Equipment shall be deemed terminated and no longer subject to this

Agreement upon the removal of Lessee's railroad markings from the Item of Equipment and the placing thereon of such markings as may be designated by Lessor, either, at the option of Lessor: (1) Upon delivery of such Item of Equipment to Lessee's railroad line subsequent to termination of the Term as to such Item of Equipment; or (2) Removal and replacement of the markings by another railroad line which has physical possession of the Item of Equipment at the time of or subsequent to termination of the Term as to such Item of Equipment. The expense of such remarking shall be borne by Lessee only if the termination results from Lessee's default.

B. If such Equipment is on the railroad line of Lessee upon such expiration or termination or is subsequently returned to Lessee's railroad line, Lessee shall grant immediate access to Lessor or Lessor's agents to remove Lessee's railroad markings from the Equipment and place thereon such markings as may be designated by Lessor. After the removal and replacement of markings, Lessee shall use its best efforts to load such Equipment with freight and deliver it to a connecting carrier for shipment.

C. If such Equipment is not on the railroad line of Lessee upon termination, all costs of assembling, delivering, storing and transporting such Equipment, except as provided above, to Lessee's railroad line or the railroad line of a subsequent lessee shall be borne by Lessor.

D. If requested by Lessor, Lessee shall provide free, uninterrupted storage, on its tracks for the Equipment, for a period of time not to exceed ninety (90) days, provided that risk of loss during such storage shall be on Lessor. Lessee shall not be liable for per-diem, incentive per-diem or mileage charges on the Equipment while stored.

E. From and after termination of this Agreement with respect to any Item of Equipment and until its return to Lessor, all revenues earned by such Item of Equipment shall be paid to Lessor as additional rental for use of the Item of Equipment during the Term hereof and Lessor shall have no obligation to pay any fees with respect thereto to Lessee

13. Indemnities

Lessor will defend, indemnify and hold harmless Lessee from and against: (1) Any and all loss or damage of or to the Equipment, usual wear and tear excepted, unless occurring through

the fault of Lessee while Lessee has physical possession of the Equipment; and (2) Any claim, cause of action, damage, liability, cost or expense (including legal fees and costs) to which the Equipment may be subject or which may be incurred in any manner by or for the account of any such Equipment (unless occurring through the fault of Lessee) relating to the Equipment or any part thereof, including without limitation the construction, purchase, delivery of the Equipment to Lessee's railroad line, ownership, leasing or return of the Equipment, or as a result of the use, maintenance, repair, replacement, operation or the condition thereof (whether defects, if any, are latent or are discoverable by Lessor or Lessee).

14. Warranties and Covenants

Lessee represents, warrants and covenants that:

A. Lessee is a corporation duly organized, validly existing and in good standing under the laws of the state where it is incorporated and has the corporate power, authority and is duly qualified and authorized to do business wherever necessary, to carry out its present business and operations and to own or hold under lease its properties and to perform its obligations under this Agreement.

B. The entering into and performance of this Agreement will not violate any judgment, order, law or regulation applicable to Lessee, or result in any breach of or constitute a default under, or result in the creation of any line, charge, security interest or other encumbrance upon any assets of Lessee or on the Equipment pursuant to any instrument to which Lessee is a party or by which it or its assets may be bound.

C. There is no action or proceeding pending or threatened against Lessee before any court or administrative agency or other government body which might result in any material adverse effect on the business properties and assets or conditions, financial or otherwise, of Lessee.

D. There is no fact which the Lessee has not disclosed to Lessor in writing, nor is Lessee a party to any agreement or instrument or subject to any charter or other corporate restriction which, so far as the Lessee can now reasonably foresee, will individually or in the aggregate materially adversely affect the business, condition or any material portion of the properties of the Lessee or the ability of the Lessee to perform its obligations under this Agreement.

E. Lessee has during the years 1964-1968 not purchased any Boxcars.

F. Lessee does not know of any requirements for recording, filing or depositing this Agreement other than with the Interstate Commerce Commission in accordance with Title 49 U.S.C. Section 11303 which is necessary to preserve or protect the title or interest of Lessor or its assignee or mortgagee, in the United States of America.

G. This Agreement has been duly authorized, executed and delivered by Lessee and represents the valid, legal and binding obligation of Lessee, enforceable in accordance with its terms, except, as the same may be limited by bankruptcy, insolvency or other similar laws affecting the enforcement of creditors' rights generally.

Upon request of Lessor or its assignee or mortgagee at any time or times, Lessee shall deliver to Lessor an opinion of its counsel addressed to Lessor or its assignee or mortgagee, in form and substance satisfactory to Lessor or its assignee or mortgagee, which opinion shall confirm and be to the effect of the matters set forth in this Paragraph 14A through G hereof.

15. Inspection

Lessor shall, at any time during normal business hours, have the right to enter the premises where the Equipment may be located for the purpose of inspecting and examining the Equipment to insure Lessee's compliance with its obligations hereunder. Lessee shall immediately notify Lessor of any accident connected with the malfunctioning or operation of the Equipment including in such report the time, place and nature of the accident and the damage caused to property, the names and addresses of any persons injured and of witnesses and other information pertinent to Lessee's investigation of the accident. Lessee shall also notify Lessor in writing within five (5) days after any attachment, tax lien or other judicial process shall attach to any Item of Equipment. Lessee shall furnish to Lessor promptly upon its becoming available a copy of its annual report submitted to the ICC and, when requested, copies of any other income or balance sheet statements required to be submitted to the ICC.

16. Sublease and Assignment

The right to assign this Lease by either party and the Lessee's right to sublease shall exist only as follows:

A. Lessee shall have no right to assign this Lease, except to a controlled corporation whose net worth is equal to or greater than Lessee, or sublease or loan any of the Equipment without the written consent of Lessor.

B. All rights of Lessor hereunder may be assigned, pledged, mortgaged, transferred or otherwise disposed of either in whole or in part with or without notice to Lessee. This Lease and Lessee's rights hereunder are and shall be subject and subordinate in all respects to any lease, chattel mortgage, conditional sales agreement, security agreement or equipment trust covering the cars whether heretofore or hereafter created by Lessor and Lessee agreed to confirm this in writing as and when requested by Lessor, except that no such assignment shall abridge or diminish the rights of Lessee under this Lease. If Lessor shall have given written notice to Lessee stating the identity and post office address of any assignee entitled to receive future rentals and any other sums payable by Lessee hereunder, Lessee shall thereafter make such payments to the designated assignee.

The making of an assignment or sublease by Lessee or an assignment by Lessor shall not serve to relieve such party of any liability or undertaking hereunder nor to impose any liability or undertaking hereunder upon any such assignee or sublessee except as otherwise provided herein or unless expressly assumed in writing by such sublessee or assignee.

17. Miscellaneous

A. This Agreement and the Schedules contemplated hereby shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

B. Any notice required or permitted to be given by one party to another hereunder shall be promptly given when made in writing, deposited in the United States mail, registered or certified, postage prepaid, addressed to:

Lessor at: UPPER MERION AND PLYMOUTH
RAILROAD COMPANY
P. O. Box 404
Conshohocken, PA 19428

Attention: President

Lessee at: PECOS VALLEY SOUTHERN RAILWAY COMPANY
P. O. Box 349
Pecos, Texas 79772

Attention: Mr. H. L. Cox

or such other address as either party may from time to time designate by notice in writing to the other.

C. No failure or delay by Lessor shall constitute a waiver of or otherwise affect or impair any right, power or remedy available to Lessor nor shall any waiver or indulgence by Lessor or any partial or single exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

D. This Agreement shall be governed by and construed according to the laws of the State of Pennsylvania.

E. Lessor is hereby designated as the collection and disbursing agent for all revenues including per-diem, mileage, incentive per-diem and repair bills.

18. Additional Insurance Provision

Lessor will at all times while this Agreement is in effect and at its own expense, cause to be carried and maintained insurance with respect to the Equipment, and property damage and public liability insurance in amounts of not less than the following schedule:

	<u>Each Occurrence</u>	<u>Aggregate</u>
General Liability (Comprehensive)	\$ 500,000	\$1,000,000
Bodily Injury	500,000	1,000,000
Property Damage	500,000	1,000,000
Special Pak Coverage	500,000	1,000,000
Excess Indemnity, Personal Injury & Property Damage Continued	2,500,000	2,500,000

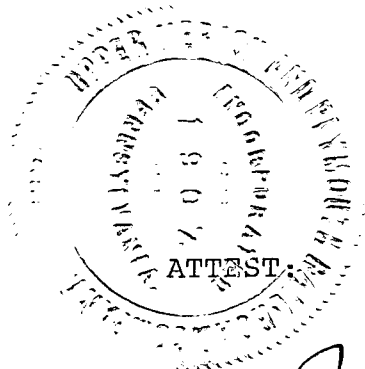
provided, that such insurance continues to be available to Lessor at an annual premium which shall not escalate at a rate in excess of 20% per year. The insurance required by this Section 18 may be satisfied by a self-insurance program acceptable to Lessee and maintained by Lessor in accordance with sound actuarial principles. Lessor will furnish Lessee concurrently with the execution hereof and thereafter at intervals of not more than twelve calendar months, with a detailed report signed by an independent insurance broker with respect to the insurance carried on the Equipment together with the opinion of such brokers as to its compliance with the provisions of this Section 18. Lessor will cause such firm to agree to advise Lessee promptly of any lapse or any default of payment of any premium and of any other act or omission of Lessor of which it has knowledge

which might, in its opinion, invalidate or render unenforceable, in whole or in part, any insurance on the Equipment. All insurance shall be taken out in the name of Lessee and Lessor (and its assignee) as their interests may appear. The policies or certificates shall provide that there shall be no recourse against Lessee for the payment of premiums and shall provide for at least twenty (20) business days prior written notice to be given to Lessee by the underwriters in the event of cancellation. If the Lessor shall default in the payment of any premium in respect to any such insurance policies, Lessee may, but shall not be obliged to, pay such premium, and if Lessee does so, the Lessor shall repay the amount thereof to Lessee on demand. Nothing herein contained nor any provision of any policy obtained hereunder (including, but not limited to, any provision naming Lessee as named insured), shall have the effect of limiting, modifying or terminating the obligations and responsibilities of Lessor under Section 12 of this Lease.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

UPPER MERION & PLYMOUTH RAILROAD COMPANY

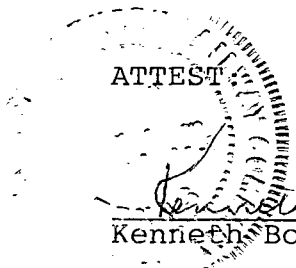
By: J. N. Ball
Title: Vice President and
General Manager



John D. McHenry
Asst. Secretary

PECOS VALLEY SOUTHERN RAILWAY COMPANY

By: R. B. [Signature]
Title: Vice President

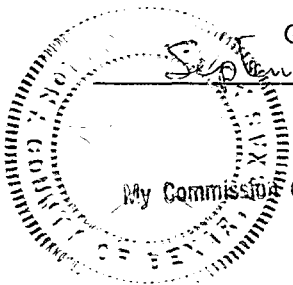


Kenneth Bowlin
Kenneth Bowlin, Secretary

STATE OF TEXAS X
 X
COUNTY OF BEXAR X

BEFORE ME, on this 7th day of September, 1979,
personally appeared J. N. Ball, to me personally
known, who being by me duly sworn, says that he is the Vice President &
General Manager of UPPER MERION & PLYMOUTH RAILROAD COMPANY, that
one of the seals affixed to the foregoing instrument is the corporate
seal of said corporation, that said instrument was signed and sealed
on behalf of said corporation by authority of its Board of Directors,
and he acknowledged that the execution of the foregoing instrument
was the free act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 7th day of
September, 1979.



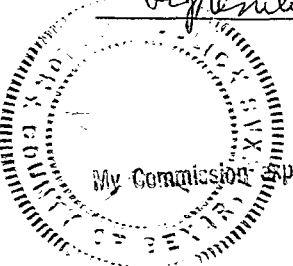
Gloria F. de la Vara
Notary Public, Bexar County, Texas

GLORIA F. DE LA VARA
Notary Public, Bexar County, Texas

STATE OF TEXAS X
 X
COUNTY OF BEXAR X

BEFORE ME, on this 7th day of September, 1979,
personally appeared Willie D. Boyd Jr., to me personally
known, who being by me duly sworn, says that he is the
Vice President of PECOS VALLEY SOUTHERN RAILWAY COMPANY,
that one of the seals affixed to the foregoing instrument is the
corporate seal of said corporation, that said instrument was signed
and sealed on behalf of said corporation by authority of its Board
of Directors, and he acknowledged that the execution of the fore-
going instrument was the free act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 7th day of
September, 1979.



Gloria F. de la Vara
Notary Public, Bexar County, Texas

GLORIA F. DE LA VARA
Notary Public, Bexar County, Texas

LEASE SCHEDULE NO. I

Lease Schedule, dated as of the 7th day of September, 1979, by and between UPPER MERION AND PLYMOUTH RAILROAD COMPANY ("Lessor") and PECOS VALLEY SOUTHERN RAILWAY COMPANY ("Lessee") pursuant to a certain Lease Agreement (the "Lease") dated as of September 7th, 1979, between Lessor and Lessee (the terms and conditions of said Lease are incorporated herein by reference).

DESCRIPTION OF EQUIPMENT:

One hundred 100-Ton open Top Hopper Car 3433 cu. ft.
(approximately)

REPORTING NUMBERS AND MARKS:

PVS 1,000 - 1,099

TERM:

15 years

PLACE OF DELIVERY:

Pecos, Texas

Witness the due execution hereof as the day and year first above written.

PECOS VALLEY SOUTHERN RAILWAY
COMPANY

UPPER MERION & PLYMOUTH RAILROAD
COMPANY

By: [Signature]

By: [Signature]

Title: Vice President

Title: Vice President and
General Manager